

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Vincent Piel

Serial No.: 10/761,920

Filed: January 20, 2004

For: COMPONENT FOR A COMPUTER

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Conf. No.: 4097

Group Art Unit: 2135

Examiner: Patel, Nirav B

Atty. Docket: 500110459-2

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/Michael Czarnecki/

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Michael Czarnecki,
Reg. No. 61,257

REPLY BRIEF PURSUANT TO 37 C.F.R. § 41.41

In response to the Examiner's Answer mailed on July 10, 2008, the Appellant respectfully submits this Reply Brief. This Reply Brief is submitted in furtherance of Appellant's Appeal Brief submitted on April 28, 2008.

I.) STATUS OF THE CLAIMS

Claims 1-17 stand finally rejected. No claims have been allowed. The rejections of claims 1-17 are appealed.

II.) GROUND OF REJECTION UNDER REVIEW

The following grounds of rejections are to be reviewed on appeal:

Claims 1-17 have been rejected under 35 U.S.C. §103(a) as allegedly being anticipated under 35 U.S.C. § 103(a) by Herzi (U.S. Patent No. 6,484,262,

hereinafter "*Herzi*") in view of Hamamoto (U.S. Patent Publication No. 2002/0000913 A1, hereinafter "*Hamamoto*").

III.) **ARGUMENT**

A.) **With Regards to the Appellant's Claims 1 Through 9**

In the Examiner's Answer to Appellant's Appeal Brief, the Examiner maintained the previous arguments in support of the Examiner's rejection of all pending claims. Specifically, the Examiner stated:

Regarding the appellant's remark (page 11) that a backup power supply is used whenever the main power supply is unavailable, Examiner would like to clarify that the backup power supply is **only for providing power to the security monitoring units** when the **main power supply of the computer system is detected unplugged or removed** [paragraph 0024, Fig. 1], thus, the computer system itself is as a no power state, which meets the claimed limitation. (emphasis in original)

See Examiner's Answer, at p. 7.

The Examiner's emphatic clarification that "the backup power supply is **only for providing power to the security monitoring units**" is inconsistent with *Hamamoto's* FIG. 1 which depicts the connection of the backup power supply unit (103) to both the "main controller" (110) and the "security monitoring controller" (105). Additionally, the Examiner's clarification is inconsistent with *Hamamoto's* specification which states:

When the machine power supply unit 118 is turned off, the main controller 110 is supplied with the voltage by the backup power supply unit 103 which converts an AC voltage from the power supply cable 191 supplied with commercial AC power to a DC voltage, and supplies the DC voltage to the main controller 110. The backup power supply unit 103 has a switching function for switching a power supply circuit when the AC voltage is shut down such that the voltage is immediately supplied from a battery 104. Therefore, if no AC voltage is supplied from the power supply cable 101 (for example, due to power interruption, cut power supply cable 101, or the like), or if the backup power supply unit 103 fails, the main controller 110 is supplied with

the voltage from the battery 104. The security monitoring controller 105 is supplied with a required voltage from the backup power supply unit 103.

See *Hamamoto*, at p. 2, ¶ 20.

Both in FIG. 1 and in paragraph 20, *Hamamoto* discloses the use of a backup power supply (103) to maintain power to BOTH the main controller 110 and the security monitoring controller 105 at all times. *Hamamoto* therefore does nothing to remedy the Examiner's acknowledged deficiency of *Herzi*, to wit: "that the security check is performed when the computer is detected to have been in an unpowered state." See *Examiner's Answer*, at p. 4.

Neither *Herzi* nor *Hamamoto*, either alone or in any practical, theoretical, or hypothetical combination, teaches, shows, or suggests the performance of a security check "when the computer is detected to have been in an unpowered state since a previous security check" as required by Appellant's independent claim 1. For at least this reason, the combination of *Herzi* in view of *Hamamoto* fails to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a) with respect to claim 1, and the rejection of claim 1 should be overturned.

Dependent claims 2 through 9 (all of which depend from independent claim 1) are allowable as a matter of law for at least the reason that dependent claims 2 through 9 contain all of the features of allowable independent claim 1. For at least this reason, the rejection of claims 2 through 9 should be overturned.

B.) With Regards to the Appellant's Claim 10

Appellant respectfully submits that independent claim 10 is allowable over *Herzi* in view of *Hamamoto* for at least the reason that *Herzi* in view of *Hamamoto* does not teach, show, or suggest the performance of a security check "when the computer is detected to have been in an unpowered state since a previous security check." as required in Appellant's independent claim 10. For at least this reason, *Herzi* in view of *Hamamoto* fails to establish a *prima facie* case of obviousness under

35 U.S.C. § 103(a) with respect to claim 10, and the rejection of claim 10 should be overturned.

C.) With Regards to the Appellant's Claim 11

Appellant respectfully submits that independent claim 11 is allowable over *Herzi* in view of *Hamamoto* for at least the reason that *Herzi* in view of *Hamamoto* does not teach, show, or suggest the performance of a security check “when the computer is detected to have been in an unpowered state since a previous security check.” as required in Appellant's independent claim 11. For at least this reason, *Herzi* in view of *Hamamoto* fails to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a) with respect to claim 11, and the rejection of claim 11 should be overturned.

D.) With Regards to the Appellant's Claim 12

Appellant respectfully submits that independent claim 12 is allowable over *Herzi* in view of *Hamamoto* for at least the reason that *Herzi* in view of *Hamamoto* does not teach, show, or suggest the performance of a security check “when the computer is detected to have been in an unpowered state since a previous security check.” as required in Appellant's independent claim 12. For at least this reason, *Herzi* in view of *Hamamoto* fails to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a) with respect to claim 12, and the rejection of claim 12 should be overturned.

Dependent claims 13 through 16 (all of which depend from independent claim 12) are allowable as a matter of law for at least the reason that dependent claims 13 through 16 contain all of the features of allowable independent claim 12. For at least this reason, the rejection of claims 13 through 16 should be overturned.

E.) With Regards to the Appellant's Claim 17

Appellant respectfully submits that independent claim 17 is allowable over *Herzi* in view of *Hamamoto* for at least the reason that *Herzi* in view of *Hamamoto* does not teach, show, or suggest the performance of a security check "when the computer is detected to have been in an unpowered state since a previous security check." as required in Appellant's independent claim 17. For at least this reason, *Herzi* in view of *Hamamoto* fails to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a) with respect to claim 17, and the rejection of claim 17 should be overturned.

IV.) CONCLUSION

Appellant respectfully submits that all pending claims are in condition for allowance. However, if the Examiner or Board wishes to resolve any other issues by way of a telephone conference, the Examiner or Board is kindly invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,

Date: September 5, 2008

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